

Baltimore County Government Fire Department 700 East Joppa Road Suite 901 Towson, MD 21286-5500 (410) 887-4500 DATE: 04/27/94 Arneld Jablen Director Zoning Administration and Development Management Baltimore County Office Building Towson, MD 21204 MAIL STOF-1105 RE: Property Communication LOCATION: SEE BELOW Item No.: SEE BELOW Zoning Agenda: Gentlemen: Pursuant to your request, the referenced property has been surveyed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property. 8. The Fire Prevention Bureau has no comments at this time, IN REFERENCE TO THE FOLLOWING ITEM NUMBERS: 374,377,378,379,380,381, 383,364, all 385, and 386, ppl

BALTIMORE COUNTY, MARYLAND INTER-OFFICE CORRESPONDENCE Arnold Jablon, Director DATE: April 22, 1994 Zoning Administration and Development Management FROM: Pat Keller, Deputy Director Office of Planning and Zoning SUBJECT: Petitions from Zoning Advisory Committee The Office of Planning and Zoning has no comments on the following petition(s): Item 374, 7736 South Cove Road - 94 389-A AV 5/2 Item 381, 2209 Headland Avenue (94-345-A) Item 382, 6000 Hamilton Avenue (94-396-501) Item 383, 6732 Charles Street Avenue (94-390-A)Item 387, 1 Brigantine Court (GY-YM-J) AV 5/G Item 389, 1044 Green Will Farm Road QN-NOIA " ZONNIG COMMISSIONER 1tem 391, 10 Blueleaf Court 94-416-56119 5/24 Item 393, 100 Sunny Meadow Lane 94-402. A AV 5/9 Item 394, 2608 Harwood Road 94/403/1 If there should be any further questions or if this office can provide additional information, please contact Jeffrey Long in the Office of Planning at 887-3480.

Total Brief Control Co

PETITION FOR VARIANCE : BEFORE THE
W/S Headland Avenue, 270' S of c/1
Blevins Avenue (2909 Headland : ZONING COMMISSIONER
Avenue), 15th Election Dist.,
7th Councilmanic Dist. : OF BALTIMORE COUNTY

PETITIONER: : CASE NO: 94-395-A

MERCANTILE FXCUANGE CORP. :

Fire Marshal Office, PHOME 887-4881, MS-1102F

REVIEWER: LT. ROBERT P. SAUERWALD

cc: File

# ENTRY OF APPEARANCE

: : : : :

Please enter the appearance of the People's Counsel in the above captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and of the passage of any preliminary or final Order.

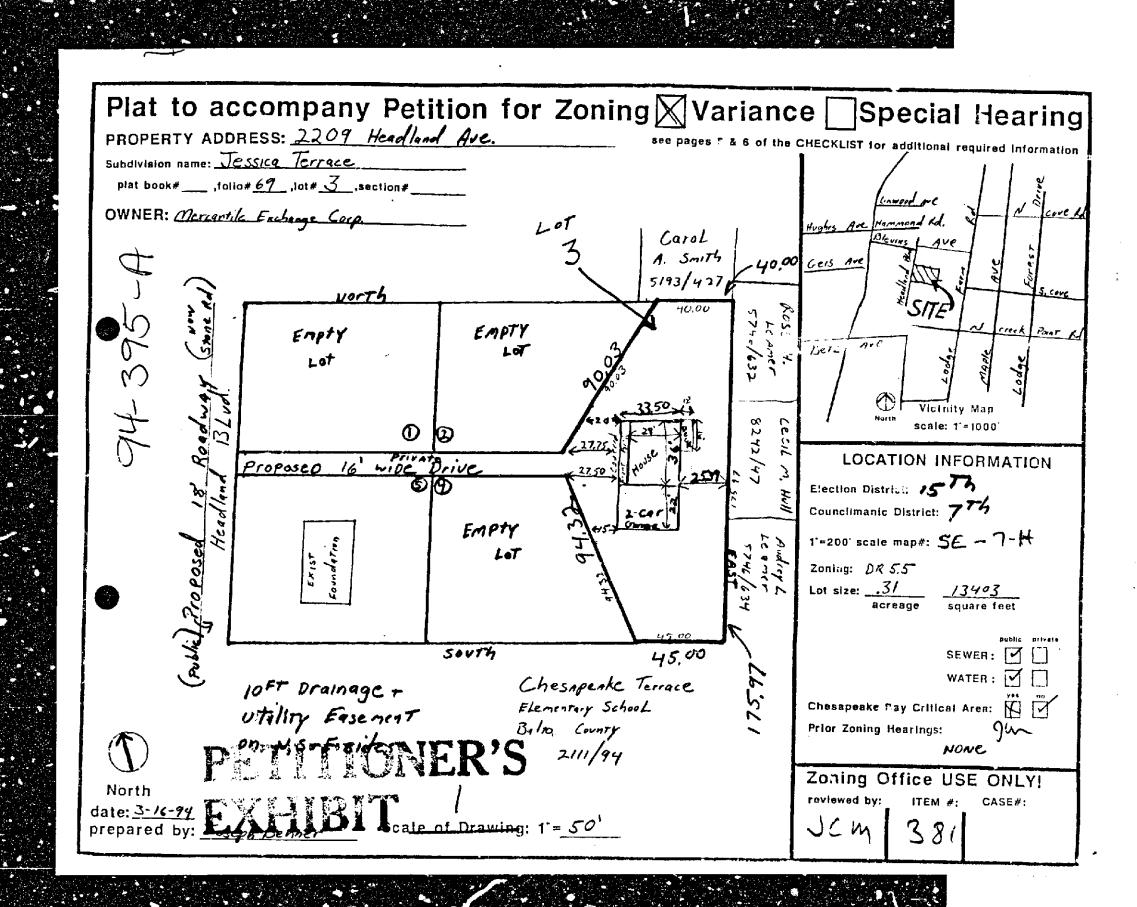
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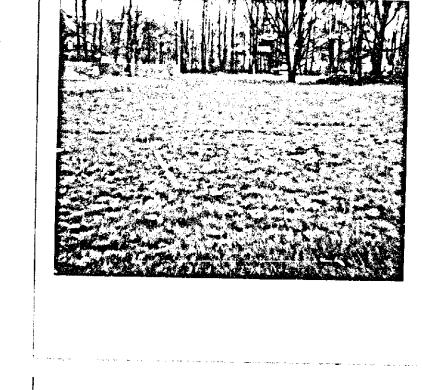
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Room 47, Courthouse
400 Washington Avenue
Towson, Maryland 21204
(410) 887-2188

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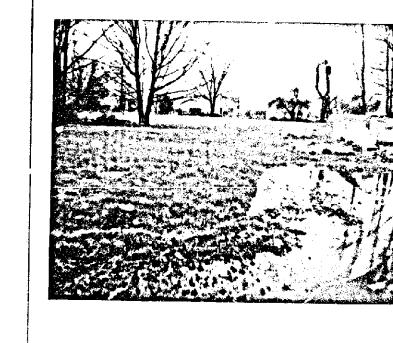
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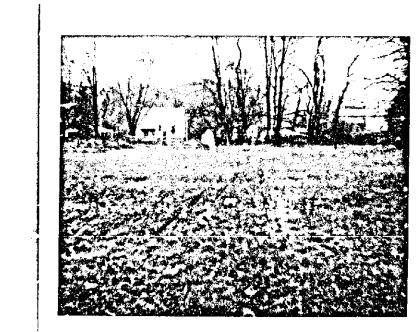
Peter Max Zimmerman





PLEASE PRINT CLEARLY





• 94-395-A



111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

### ZONING HEARING ADVERTISING AND POSTING REQUIREMENTS & PROCEDURES

Baltimore County Zoning Regulations require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property and placement of a notice in at least one newspaper of general circulation in the County.

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For newspaper advertising: Petitioner: MERCANTILE EXCHANGE COAD. (AENNER DURCHMER.) Location: 2209 HEACLANG AVE. PLEASE FORWARD ADVERTISING BILL TO: NAME: JOSEAL BENNER

ADDRESS: 7859 ST. MONICA DR. RALIO, Md. 21222 \* PHONE NUMBER: 477 - 3125

\*MUST BE SUPPLIED

1 d 1947 d5/43 t

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PETITION PROCESSING FLAG

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200 scale zoning map with property outlined \_\_\_\_ Election district Councilmanic district BCZR section information and/or wording Hardship/practical difficulty information Owner's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number Contract purchaser's signature (need minimum 1 original signature) and/or printed name and/or address Signature (need minimum 1 original signature) and/or printed name and/or title of person signing for legal owner/contract purchaser Power of attorney or authorization for person signing for legal owner and/or contract purchaser Attorney's signature (need minimum 1 original signature) and/or printed name and/or address and/or telephone number Notary Public's section is incomplete and/or incorrect and/or commission has expired ZOUING ON PETITION SAYS "RESIDENTIAL"

PET-FLAG (TXTSOPH) 11/17/93

TO: PUTUXENT PUBLISHING COMPANY April 21, 1994 Issue - Jeffersonian

Please foward billing to:

Joseph Benner 7859 St. Monica Drive Baltimore, Maryland 21222

NOTICE OF HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing on the property identified herein in Room 106 of the County Office Building, 111 W. Chesapeake Avenue in Towson, Maryland 21204

Room 118, Old Courthouse, 400 Washington Avenue, Towson, Maryland 21204 as follows:

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Variance to permit front yard setbacks of 15 feet in lieu of the required 25 feet; to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and to amend the Final Development Plann of Jessica

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management

● Tran # 380

Please Make Checks Payable To: Baltimore County

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(410) 887-3353

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Terrace.

111 West Chesapeake Avenue

APRIL 14, 1994

Towson, MD 21204

cc: Mercantile Exchange Corp. Joseph and Phyllis Benner

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management



May 6, 1994

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Mercantile Exchange Corporation 7200 North Point Road Baltimore, Maryland 21219

> RE: Case No. 94-395-A, Item No. 381 Petitioner: Mercantile Exchange Corporation, et al. Petition for Variance

Dear Mr. Gay:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on April 5, 1994, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

TO: Arnold Jablon, Director DATE: May 2, 1994 Zoning Administration and Development Management

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

FROM Robert W. Bowling, Chief Developers Engineering Section

Zoning Advisory Committee Meeting for April 25, 1994 Item No. 381

The Developers Engineering Section has reviewed the subject zoning item. See our comments in the subdivision file "Jessica Terrace." Also, additional landscape buffering will be required for final landscape plan approval.

RWB:s

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O. James Lighthizer Hal Kassoff Actoristrator

4-10 44

Re: Baltimore County

Item No.: \$\psi \cdot \cdo

Ms. Charlotte Minton Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue Towson, Maryland 21204

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

For John Contestabile, Chief

My telephone number is \_\_\_\_\_\_ Maryland Relay Service for Impaired Hearing or Speech 1-300-735-2258 Statewide Toil Free Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717 Street Address: 707 North Calvert Street . Baltimore, Maryland 21202

Printed with Soybean fri on Recycled Paper

IN RE: PETITION FOR VARIANCE W/S Headland Avenue, 270' S of the c/l of Blevins Avenue (2209 Headland Avenue) 15th Election District

\* BEFORE THE \* DEPUTY ZONING COMMISSIONER \* OF BALTIMORE COUNTY

7th Councilmanic District \* Case No. 94-395-A Mercantile Exchange Corp. Petitioners

## \* \* \* \* \* \* \* \* FINDINGS OF FACT AND CONCLUSIONS OF LAW

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2209 Headland Avenue, located in the Lodge Forest area of southeastern Baltimore County. The Petition was filed by the owners of the property, Mercantile Exchange Corporation, by James Gay, President, and the Contract Purchasers, Joseph and Phyllis Benner. The Petitioners seek relief from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Joseph and Phyllis Benner, Contract Purchasers. There were no Protestants present.

Testimony revealed that the subject property, known as 2209 Headland Avenue, consists of .31 acres, more or less, zoned D.R. 5.5 and is presently unimproved. This property, also known as Lot 3 of Jessica Terrace, is located within the Chesapeake Bay Critical Areas. Lot 3 is an irregularly shaped rectangular lot located at the end of a panhandle drive off of Headland Avenue. The property is approximately 45 feet in width on the south side, 40 feet on the north side and 175.97 feet across the rear property line. The east (front) side of the property is split by the

panhandle driveway entrance to the site. The irregular shape of the lot and the dimensions of same are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1. Mr. Benner testified that he and his wife are desirous of developing Lot 3 with a single family dwelling and are in the process of purchasing a 28' x 58' home kit from 84 Lumber. Due to the irregular shape of the lot and the location of the building envelope thereon, the relief requested is necessary in order to build the proposed dwelling.

As noted above, this property is located within the Chesapeake Bay Critical Areas and is subject to compliance with any recommendations made by the Department of Environmental Protection and Resource Management (DEFRM) in accordance with Critical Areas legislation. Therefore, the granting of any relief is contingent upon the Petitioners submitting a findings plan for review and approval by DEPRM and compliance with any recommendations made by DEPRM upon completion of their review.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

Baltimore County this  $23^{\circ}$  day of May, 1994 that the Petition for Variance seeking relief from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following

It is clear from the testimony that if the variance is granted,

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for restrictions:

CERTIFICATE OF POSTING ZON'ING DEPARTMENT OF BALTIMORE COUNTY 94-395-12

Posted for: Variant	Date of Posting 4/29/94
Petitioner: Mercanti	ilo Exchange Corn & Fascol P. R.
Location of property: 22	10 Fxchorg Corp & Jarest B. Bonner 09 Head land Are - Let 3, W/s
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Location of Signa:	ing toadway on proporty being round
Remarks:	

1) The Petitioners may apply for their building

permit and be granted same upon receipt of this Order;

however, Petitioners are hereby made aware that pro-

ceeding at this time is at their own risk until such

time as the 30-day appellate process from this Order

has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Compliance with any recommendations made by DEPRM

3) When applying for a building permit, the site

plan and/or landscaping plan filed must reference this

case and set forth and address the restrictions of

TIMOTHY M. KOTROCO

for Baltimore County

Deputy Zoning Commissioner

upon completion of their review of this project.

CERTIFICATE OF PUBLICATION

TOWSON, MD., Opil 22 1994 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on Quild, 19 94.

> THE JFFFERSONIAN, LEGAL AD. - TOWSON

Baltimore County Government Zoning Commissioner Office of Planning and Zoning

Suite 113 Courthouse 400 Washington Avenue Towson, MD 21204

(410) 887-4386

May 23, 1994

Mr. & Mrs. Joseph B. Benner 7859 St. Monica Drive Baltimore, Maryland 21222

RE: PETITION FOR VARIANCE W/S Headland Avenue, 270' S of the c/l of Blevins Avenue (2209 Headland Avenue) 15th Election District - 7th Councilmanic District Mercantile Exchange Corp. - Petitioners Case No. 94-395-A

Dear Mr. & Mrs. Benner:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavor-, able, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

> Very truly yours, Sun they Kotrors TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

cc: Mr. James Gay, President, Mercantile Exchange Corp. 7200 North Point Road, Baltimore, Md. 21219

Chesapeake Bay Critical Areas Commission 45 Calvert Street, 2nd Floor, Annapolis, Md. 21401 DEPRM; People's Counsel; Fil

Petition for Variance

To Amend the Final Development Plan of Jessica Terrace
to the Zoning Commissioner of Baltimore County for the property located at 2209 Headland Ave. (1ot 3) which is presently zoned Residential This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto shu' made a part hereof, hereby petition for a Variance from Section(s)

1801. Z. C. I. B. BCZR, To Permit front yard setbacks of 15' in lieu of the required 25' and a rear yard setback of 25' in lieu of the required 30'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. IWe do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee. (H) 477-3125 (W) 477-0610 Mercantile Exchange Corp. Joseph B Benner 7859 ST. Monica Drive 7200 North Point Rd. (410)477-3800 Phyllis Benner

EXAMPLE 3 - Zoning Description - 3 copies Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet. ZONING DESCRIPTION FOR 2209 Headland Ave. Beginning at a point on the \_\_\_\_\_\_ West \_\_\_\_ side of (north, south, east or west) Headland Ave. which is EX.45 (Future 50) (street on which property fronts) (number of feet of right-of way width) wide at a distance of 270 feet south of the (number of feet) (north, south, east or west) centerline of the nearest improved intersecting street Blevins Ave. which is EX.30 wide. \*Being Lot # 3 (number of feet of right-of-way width) Block \_\_\_\_\_, Section # \_\_\_\_\_ in the subdivision of Jessica Terrace As recorded in Baltimore County Plat (Hame of subdivision) Book # \_\_\_\_\_\_, Folio # 69 \_\_\_\_\_, containing 13403 feet 0 31Ac (square feet and acres) \*If your property is not r corded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision Jescription as shown, instead state: "As recorded in Deed Liber \_\_\_\_, Folio 69 " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location. Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

381

4/219 April 21,

Variance: to permit front yard setbacks of 15 feet in lieu of the required 25 feet; to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and

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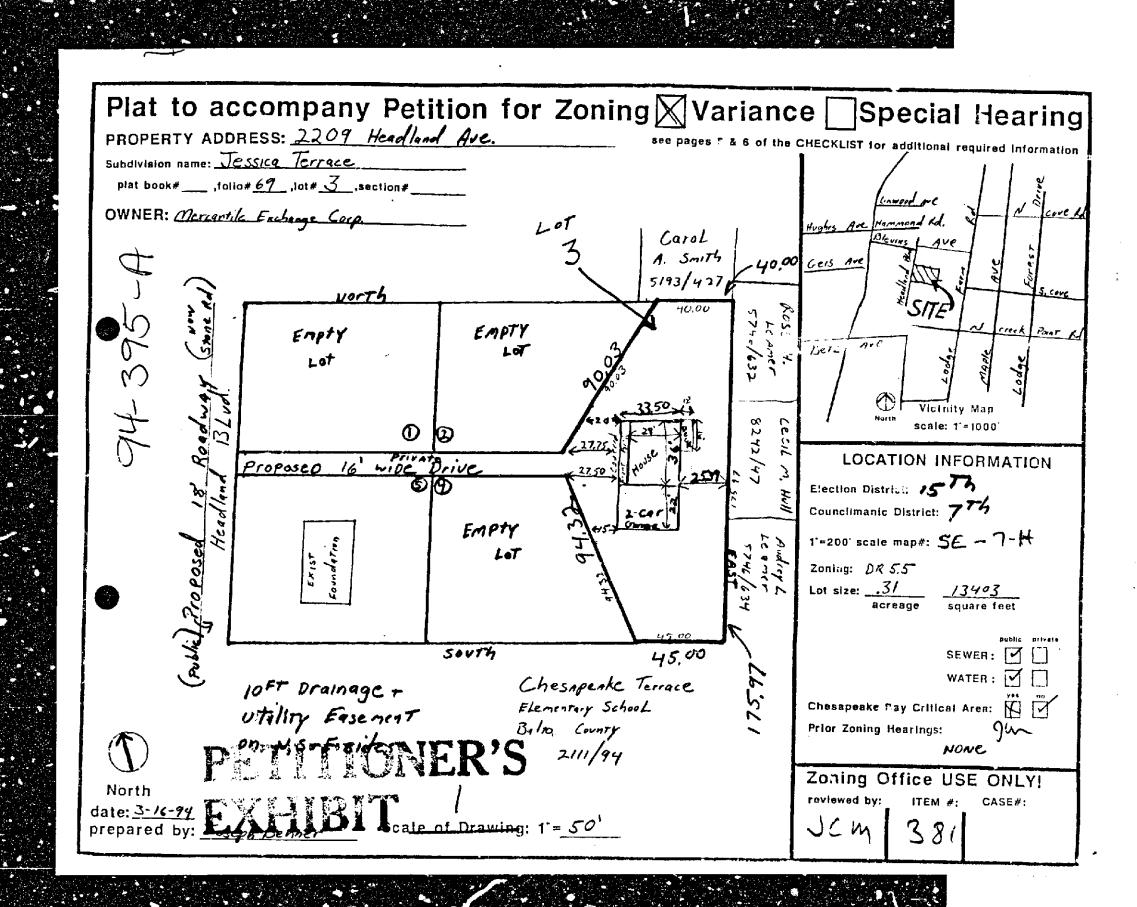
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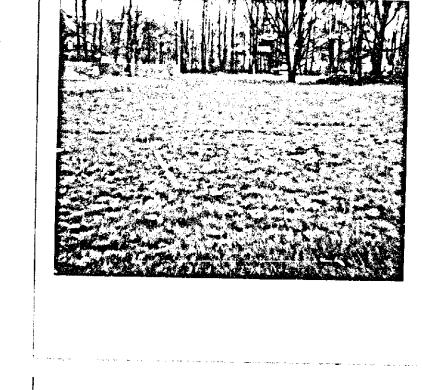
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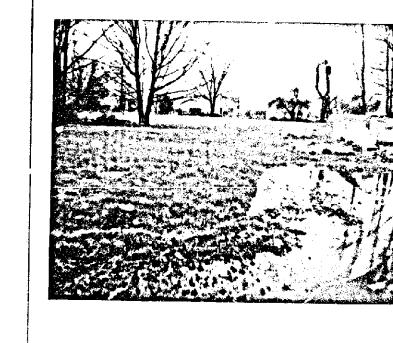
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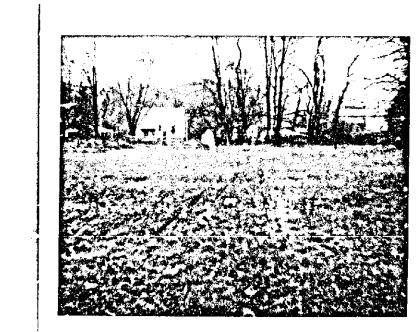
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CASE NUMBER: 94-395-A (item 381) 2209 Healdand Avenue - Lot #3 W/S Headland Avenue, 270' S of c/l Blevins Avenue 15th Election District - 7th Councilmanic Legal Owner(s): Mercantile Exchange Corporation Contract Purchaser(s): Joseph B. Benner HEARING: TUESDAY, MAY 17, 1994 at 2:00 p.m. in Rm. 118, Old Courthouse.

Variance to permit front yard setbacks of 15 feet in lieu of the required 25 feet; to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and to amend the Final Development Plann of Jessica

LAWRENCE E. SCHMIDT ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (2) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, PLEASE CALL 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management

● Tran # 380

Please Make Checks Payable To: Baltimore County

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(410) 887-3353

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NOTICE OF HEARING

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Terrace.

111 West Chesapeake Avenue

APRIL 14, 1994

Towson, MD 21204

cc: Mercantile Exchange Corp. Joseph and Phyllis Benner

NOTES: (1) ZONING SIGN & POST MUST BE RETURNED TO RM. 104, 111 W. CHESAPEAKE AVENUE ON THE HEARING DATE. (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL 887-3353. (3) FOR INFORMATION CONCERING THE FILE AND/OR HEARING, CONTACT THIS OFFICE AT 887-3391.

Baltimore County Government Office of Zoning Administration and Development Management



May 6, 1994

111 West Chesapeake Avenue Towson, MD 21204

(410) 887-3353

Mercantile Exchange Corporation 7200 North Point Road Baltimore, Maryland 21219

> RE: Case No. 94-395-A, Item No. 381 Petitioner: Mercantile Exchange Corporation, et al. Petition for Variance

Dear Mr. Gay:

The Zoning Plans Advisory Committee (ZAC) has reviewed the plans submitted with the above referenced petition. The attached comments from each reviewing agency are not intended to indicate the appropriateness of the zoning action requested, but to assure that all parties, i.e., zoning commissioner, attorney and/or the petitioner, are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case.

Enclosed are all comments submitted thus far from the members of ZAC that offer or request information on your petition. If additional comments are received from other members of ZAC, I will forward them to you. Otherwise, any comment that is not informative will be placed in the hearing file. This petition was accepted for filing on April 5, 1994, and a hearing was scheduled accordingly.

The following comments are related only to the filing of future zoning petitions and are aimed at expediting the petition filing process with this office.

1. The director of Zoning Administration and Development Management has instituted a system whereby seasoned zoning attorneys who feel that they are capable of filing petitions that comply with all aspects of the zoning regulations and petitions filing requirements can file their petitions with this office without the necessity of a preliminary review by zoning personnel.

TO: Arnold Jablon, Director DATE: May 2, 1994 Zoning Administration and Development Management

BALTIMORE COUNTY, MARYLAND

INTEROFFICE CORRESPONDENCE

FROM Robert W. Bowling, Chief Developers Engineering Section

Zoning Advisory Committee Meeting for April 25, 1994 Item No. 381

The Developers Engineering Section has reviewed the subject zoning item. See our comments in the subdivision file "Jessica Terrace." Also, additional landscape buffering will be required for final landscape plan approval.

RWB:s

. . . .



O. James Lighthizer Hal Kassoff Actoristrator

4-10 44

Re: Baltimore County

Item No.: \$\psi \cdot \cdo

Ms. Charlotte Minton Zoning Administration and Development Management County Office Building Room 109 111 W. Chesapeake Avenue Towson, Maryland 21204

Dear Ms. Minton:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not effected by any State Highway Administration project.

Please contact Bob Small at 410-333-1350 if you have any questions.

Thank you for the opportunity to review this item.

For John Contestabile, Chief

My telephone number is \_\_\_\_\_\_ Maryland Relay Service for Impaired Hearing or Speech 1-300-735-2258 Statewide Toil Free Mailing Address: P.O. Box 717 - Baltimore, MD 21203-0717 Street Address: 707 North Calvert Street . Baltimore, Maryland 21202

Printed with Soybean fri on Recycled Paper

IN RE: PETITION FOR VARIANCE (2209 Headland Avenue) 15th Election District

W/S Headland Avenue, 270' S of the c/l of Blevins Avenue

7th Councilmanic District

Mercantile Exchange Corp. Petitioners

## FINDINGS OF FACT AND CONCLUSIONS OF LAW

\* \* \* \* \* \* \* \*

\* BEFORE THE

\* DEPUTY ZONING COMMISSIONER

\* OF BALTIMORE COUNTY

\* Case No. 94-395-A

This matter comes before the Deputy Zoning Commissioner as a Petition for Variance for that property known as 2209 Headland Avenue, located in the Lodge Forest area of southeastern Baltimore County. The Petition was filed by the owners of the property, Mercantile Exchange Corporation, by James Gay, President, and the Contract Purchasers, Joseph and Phyllis Benner. The Petitioners seek relief from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1.

Appearing on behalf of the Petition were Joseph and Phyllis Benner, Contract Purchasers. There were no Protestants present.

Testimony revealed that the subject property, known as 2209 Headland Avenue, consists of .31 acres, more or less, zoned D.R. 5.5 and is presently unimproved. This property, also known as Lot 3 of Jessica Terrace, is located within the Chesapeake Bay Critical Areas. Lot 3 is an irregularly shaped rectangular lot located at the end of a panhandle drive off of Headland Avenue. The property is approximately 45 feet in width on the south side, 40 feet on the north side and 175.97 feet across the rear property line. The east (front) side of the property is split by the

panhandle driveway entrance to the site. The irregular shape of the lot and the dimensions of same are more particularly described on the plat submitted into evidence as Petitioner's Exhibit 1. Mr. Benner testified that he and his wife are desirous of developing Lot 3 with a single family dwelling and are in the process of purchasing a 28' x 58' home kit from 84 Lumber. Due to the irregular shape of the lot and the location of the building envelope thereon, the relief requested is necessary in order to build the proposed dwelling.

As noted above, this property is located within the Chesapeake Bay Critical Areas and is subject to compliance with any recommendations made by the Department of Environmental Protection and Resource Management (DEFRM) in accordance with Critical Areas legislation. Therefore, the granting of any relief is contingent upon the Petitioners submitting a findings plan for review and approval by DEPRM and compliance with any recommendations made by DEPRM upon completion of their review.

An area variance may be granted where strict application of the zoning regulations would cause practical difficulty to the Petitioner and McLean v. Soley, 270 Md. 208 (1973). To prove practical difficulty for an area variance, the Petitioner must meet the following:

> 1) whether strict compliance with requirement would unreasonably prevent the use of the property for a permitted purpose or render conformance unnecessarily

> 2) whether the grant would do substantial injustice to applicant as well as other property owners in the district or whether a lesser relaxation than that applied for would give substantial relief; and

> 3) whether relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Anderson v. Bd. of Appeals, Town of Chesapeake Beach, 22 Md. App. 28

It is clear from the testimony that if the variance is granted, such use, as proposed, will not be contrary to the spirit of the B.C.Z.R. and will not result in any injury to the public good.

After due consideration of the testimony and evidence presented, it is clear that practical difficulty or unreasonable hardship will result if the variance is not granted. It has been established that special circumstances or conditions exist that are peculiar to the land or structure which is the subject of this variance request and that the requirements from which the Petitioner seeks relief will unduly restrict the use of the land due to the special conditions unique to this particular parcel. In addition, the variance requested will not cause any injury to the public health, safety or general welfare. Further, the granting of the Petitioner's request is in strict harmony with the spirit and intent of the B.C.Z.R.

Pursuant to the advertisement, posting of the property, and public hearing on this Petition held, and for the reasons given above, the variance requested should be granted.

THEREFORE, IT IS ORDERED by the Deputy Zoning Commissioner for Baltimore County this  $23^{\circ}$  day of May, 1994 that the Petition for Variance seeking relief from Section 1B01.2.C.1.b of the Baltimore County Zoning Regulations (B.C.Z.R.) to permit front yard setbacks of 15 feet each in lieu of the required 25 feet and a rear yard setback of 25 feet in lieu of the required 30 feet for a proposed dwelling in accordance with Petitioner's Exhibit 1, be and is hereby GRANTED, subject to the following restrictions:

1) The Petitioners may apply for their building permit and be granted same upon receipt of this Order; however, Petitioners are hereby made aware that proceeding at this time is at their own risk until such time as the 30-day appellate process from this Order has expired. If, for whatever reason, this Order is reversed, the relief granted herein shall be rescinded.

Compliance with any recommendations made by DEPRM upon completion of their review of this project.

3) When applying for a building permit, the site plan and/or landscaping plan filed must reference this case and set forth and address the restrictions of

TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

Petition for Variance

To Amend the Final Development Plan of Jessica Terrace
to the Zoning Commissioner of Baltimore County

(410) 887-4386

May 23, 1994

Baltimore County Government

Zoning Commissioner Office of Planning and Zoning

Mr. & Mrs. Joseph B. Benner 7859 St. Monica Drive Baltimore, Maryland 21222

Suite 113 Courthouse 400 Washington Avenue

Towson, MD 21204

RE: PETITION FOR VARIANCE W/S Headland Avenue, 270' S of the c/l of Blevins Avenue (2209 Headland Avenue) 15th Election District - 7th Councilmanic District Mercantile Exchange Corp. - Petitioners

Dear Mr. & Mrs. Benner:

Case No. 94-395-A

Enclosed please find a copy of the decision rendered in the above-captioned matter. The Petition for Variance has been granted in accordance with the attached Order.

In the event any party finds the decision rendered is unfavor-, able, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Zoning Administration and Development Management office at 887-3391.

> Very truly yours, Sun they Kotrors TIMOTHY M. KOTROCO Deputy Zoning Commissioner for Baltimore County

cc: Mr. James Gay, President, Mercantile Exchange Corp. 7200 North Point Road, Baltimore, Md. 21219

Chesapeake Bay Critical Areas Commission 45 Calvert Street, 2nd Floor, Annapolis, Md. 21401 DEPRM; People's Counsel; Fil

for the property located at 2209 Headland Ave. (1ot 3) which is presently zoned Residential This Petition shall be filed with the Office of Zoning Administration & Development Management.

The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto shu' made a part hereof, hereby petition for a Variance from Section(s)

1801. Z. C. I. B. BCZR, To Permit front yard setbacks of 15' in lieu of the required 25' and a rear yard setback of 25' in lieu of the required 30'.

of the Zoning Regulations of Baltimore County, to the Zoning Law of Baltimore County; for the following reasons: (indicate hardship or Property is to be posted and advertised as prescribed by Zoning Regulations. I, or we, agree to pay expenses of above Variance advertising, posting, etc., upon filing of this petition, and further agree to and are to be bound by the zoning regulations and restrictions of Baltimore County adopted pursuant to the Zoning Law for Baltimore County. IWe do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition. Contract Purchaser/Lessee. (H) 477-3125 (W) 477-0610 Mercantile Exchange Corp. Joseph B Benner 7859 ST. Monica Drive 7200 North Point Rd. (410)477-3800 Phyllis Benner

EXAMPLE 3 - Zoning Description - 3 copies Three copies are required. Copies of deeds cannot be used in place of this description. Use this fill-in format provided whenever possible; otherwise, type or print on 8-1/2" x 11" sheet. ZONING DESCRIPTION FOR 2209 Headland Ave. (address) 774 Beginning at a point on the \_\_\_\_\_\_ West \_\_\_\_ side of (north, south, east or west) Headland Ave. which is EX.45 (Future 50) (street on which property fronts) (number of feet of right-of way width) wide at a distance of 270 feet south of the (number of feet) (north, south, east or west) centerline of the nearest improved intersecting street Blevins Ave. which is EX.30 wide. \*Being Lot # 3 (number of feet of right-of-way width) Block \_\_\_\_\_, Section # \_\_\_\_\_ in the subdivision of Jessica Terrace As recorded in Baltimore County Plat (Hame of subdivision) Book # \_\_\_\_\_\_, Folio # 69 \_\_\_\_\_, containing 13403 feet 0 31Ac (square feet and acres) \*If your property is not r corded by Plat Book and Folio Number, then DO NOT attempt to use the Lot, Block and Subdivision Jescription as shown, instead state: "As recorded in Deed Liber \_\_\_\_, Folio 69 " and include the measurements and directions (metes and bounds only) here and on the plat in the correct location. Example of metes and bounds: N.87 12' 13" E. 321.1 ft., S.18 27' 03" E.87.2 ft., S.62 19' 00" W. 318 ft., and N.08 15' 22" W. 80 ft. to the place of beginning.

CERTIFICATE OF POSTING ZONING DEPARTMENT OF BALTIMORE COUNTY 971-395-12

		lowsen, Maryland	
District 15 Th	Tononco	Date of Posting 1/29/94	
Petitioner: Men	cantilo Exchange (	exp & Faseph B. Bon .	
Location of propert	, 2209 Head la	nd Are-Left 3, W/s	
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Remarks:			

CERTIFICATE OF PUBLICATION

TOWSON, MD., Opil 22 1994 THIS IS TO CERTIFY, that the annexed advertisement was published in THE JEFFERSONIAN, a weekly newspaper published in Towson, Baltimore County, Md., once in each of \_\_\_\_\_ successive weeks, the first publication appearing on Quild, 19 94.

> THE JEFFERSONIAN, LEGAL AD. - TOWSON

381

4/219 April 21,

Variance: to permit front yard setbacks of 15 feet in lieu of the required 25 feet; to permit a rear yard setback of 25 feet in lieu of the required 30 feet; and

HOTICE OF HEARING